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ACLU OF RI POSITION: AMEND

TESTIMONY ON 21-H 5814, RELATING TO RHODE ISLAND VETERANS' HOME March 11, 2021

This bill would completely rewrite the current statutory provisions governing the R.I. Veterans' Home and create a quasi-public authority to oversee the facility. The ACLU has no position on this substantive issue, but we wish to note that the bill reincorporates a questionable provision contained in the current law that, in light of the rewriting of the statute, we believe it would be appropriate to correct at this time.

Specifically, on page 10, lines 18-21, the bill provides for a two-year state residency requirement for a person to be admitted to the veterans' home if his or her military enlistment is not accredited to the state. These types of durational residency requirements – as opposed to a requirement that the veteran be a legal resident of the state at the time of the application – have routinely been struck down by the courts on constitutional grounds, and so should be deleted.

The U.S. Supreme Court has noted that the constitutional right to travel “protects new residents of a state from being disadvantaged because of their recent migration or from otherwise being treated differently from longer term residents.” *Zobel v. Williams*, 457 U.S. 55, 60 n.6 (1982). In fact, a few of the Court's cases explicating this constitutional right have specifically arisen in the context of veterans' benefits.

For example, in *Attorney General of New York v. Soto-Lopez*, 476 U.S. 898 (1986), the Court struck down a New York veterans' civil service preference that applied only to residents that had resided in the state when they entered military service. And in *Hooper v. Bernalillo*, 472 U.S. 612 (1985), the Court ruled unconstitutional a New Mexico statute that gave a property tax exemption to veterans, but only if they had resided in the state before a certain date.

Rhode Island cases have also struck down durational residency requirements, though outside this particular context. For two examples, see *Cole v. Housing Authority of City of Newport*, 312 F.Supp. 692 (1970) (ruling unconstitutional a durational residency requirement for admission to public housing) and *Westenfelder v. Ferguson*, 998 F.Supp. 146 (1998) (striking down a durational residency requirement for full access to welfare benefits).

We believe these decisions make clear that the durational residency requirement contained in H-5814 (and the current law) cannot withstand constitutional scrutiny. We would therefore urge that this particular criterion be deleted if the bill is favorably considered for passage. Thank you in advance for your attention to this.